

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PATTI M. PAGE,

Plaintiff,

vs.

HSIEH, et al.,

Defendants.

1:21-cv-00154-NONE-GSA-PC

**ORDER WITHDRAWING FINDINGS
AND RECOMMENDATIONS ISSUED
ON FEBRUARY 24, 2021
(ECF No. 9.)**

**ORDER GRANTING PLAINTIFF'S
MOTION TO PROCEED IN FORMA
PAUPERIS
(ECF No. 7.)**

**ORDER DIRECTING PAYMENT
OF INMATE FILING FEE BY
CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION**

Patti M. Page ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. On February 8, 2021, Plaintiff filed the Complaint commencing this action. (ECF No. 1.) On February 19, 2021, Plaintiff filed a motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (ECF No. 5), and on February 23, 2021, Plaintiff filed a certified copy of her prison trust account statement (ECF No. 7).

In her motion to proceed *in forma pauperis*, Plaintiff reported that she received a \$1,200.00 stimulus check, as reflected as a transaction on December 11, 2020. (ECF Nos. 5, 7.) Plaintiff's trust account statement also showed that on January 16, 2021, shortly before filing the

1 Complaint for this action, she had a balance of \$950.00 in the account. (ECF No. 7.) Under
2 these facts the court found that Plaintiff could afford the \$402.00 filing fee for this action.
3 Therefore, on February 24, 2021, the court issued findings and recommendations to deny
4 Plaintiff's motion to proceed *in forma pauperis* based on the balance in her prison trust account.
5 (ECF No. 9.) On March 4, 2021, Plaintiff filed objections to the findings and recommendations.
6 (ECF No. 10.)

7 In her objections Plaintiff stated that she had been told that the funds received as part of
8 the Federal Stimulus Program were exempt from any and all restitutions, direct orders, and
9 obligations and collections by the court. Plaintiff asserts that she is paroling from prison soon
10 and will need all the financial help she can get.

11 Plaintiff is correct that Governor Newsom's Executive Order N-57-20 provides that under
12 the circumstances here, the court is prohibited from collecting or retaining funds from Plaintiff's
13 prison trust account for payment of the filing fee. Cal. Exec. Order No. N-57-20 (Apr. 23, 2020),
14 <https://www.gov.ca.gov/wpcontent/uploads/2020/04/4.23.20-EO-N-57-20.pdf>; Nizan Geslevich
15 Packin, *In Too-Big-to-Fail We Trust: Ethics and Banking in the Era of Covid-19*, 2020 Wis. L.
16 Rev. Forward 101, 119 (2020). Therefore, the court shall withdraw its findings and
17 recommendations.

18 Plaintiff has requested leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.
19 The court has re-examined Plaintiff's motion to proceed *in forma pauperis* and the copy of her
20 trust account statement and finds that Plaintiff has made the showing required by § 1915(a) and
21 accordingly, the request to proceed *in forma pauperis* will be granted. Plaintiff is obligated to
22 pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1). Plaintiff is
23 obligated to make monthly payments in the amount of twenty percent of the preceding month's
24 income credited to plaintiff's trust account. The California Department of Corrections and
25 Rehabilitation is required to send to the Clerk of the Court payments from plaintiff's account
26 each time the amount in the account exceeds \$10.00, until the statutory filing fee is paid in full.
27 28 U.S.C. § 1915(b)(2).

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1 In accordance with the above and good cause appearing therefore, IT IS HEREBY
2 ORDERED that:

3 1. The findings and recommendations (ECF No. 9) issued in this case on February
4 24, 2021 are WITHDRAWN;

5 2. Plaintiff's application to proceed *in forma pauperis* is GRANTED;

6 3. **The Director of the California Department of Corrections and Rehabilitation**
7 **or his/her designee shall collect payments from plaintiff's prison trust account in an**
8 **amount equal to twenty per cent (20%) of the preceding month's income credited to**
9 **the prisoner's trust account and shall forward those payments to the Clerk of the**
10 **Court each time the amount in the account exceeds \$10.00, in accordance with 28**
11 **U.S.C. § 1915(b)(2), until a total of \$350.00 has been collected and forwarded to the**
12 **Clerk of the Court. The payments shall be clearly identified by the name and**
13 **number assigned to this action.**

14 4. The Clerk of the Court is directed to serve a copy of this order and a copy of
15 plaintiff's *in forma pauperis* application on the Director of the California Department of
16 Corrections and Rehabilitation, via the court's electronic case filing system (CM/ECF).

17 5. The Clerk of the Court is directed to serve a copy of this order on the Financial
18 Department, U.S. District Court, Eastern District of California, Sacramento Division.
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21 IT IS SO ORDERED.

22 Dated: April 10, 2021

/s/ Gary S. Austin
23 UNITED STATES MAGISTRATE JUDGE
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